

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Blanche Jackson O/B/O "BE",

Plaintiff,

v.

Nancy A. Berryhill,

Defendant.

16-CV-99
Decision and Order

On February 5, 2016, the plaintiff commenced this action. Docket Item 1. On January 11, 2017, this Court referred this case to United States Magistrate Judge Leslie G. Foschio for all proceedings under 28 U.S.C. § 636(b)(1)(B). Docket Item 15. On that same day, the plaintiff moved for judgment on the pleadings or, in the alternative, to remand for further proceedings, Docket Item 13-1; and on January 17, 2017, the defendant responded and cross-moved for judgment on the pleadings, Docket Item 16.

On March 19, 2018, Judge Foschio issued a Report and Recommendation finding that the defendant's motion should be granted and that the plaintiff's motion should be denied. Docket Item 17. The parties did not object to the Report and Recommendation, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's

recommendation to which objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Foschio's Report and Recommendation as well as the submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Foschio's recommendation to grant the defendant's motion and deny the plaintiff's motion.

For the reasons stated above and in the Report and Recommendation, the defendant's motion for judgment on the pleadings, Docket Item 16, is GRANTED; the plaintiff's motion for judgment on the pleadings or, in the alternative, to remand for further proceedings, Docket Item 13, is DENIED; the complaint, Docket Item 1, is dismissed; and the Clerk of the Court is instructed to close the file.

SO ORDERED.

Dated: May 8, 2018
Buffalo, New York

s/Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE